

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY  
(PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/IL2006/001487

International filing date (day/month/year)  
26.12.2006

Priority date (day/month/year)  
28.12.2005

International Patent Classification (IPC) or both national classification and IPC  
INV. G01N33/50 C12M3/00 B01L3/00

Applicant  
SENG ENTERPRISES LTD.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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NL-2280 HV Rijswijk - Pays Bas  
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Date of completion of  
this opinion

see form  
PCT/ISA/210

Authorized Officer

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**WRITTEN OPINION OF THE  
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**Box No. I Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of:
  - ☒ the international application in the language in which it was filed
  - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ on paper
    - ☐ in electronic form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in electronic form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

☐ the entire international application

☒ claims Nos. 32-36

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international search (*specify*):
- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):
- ☒ no international search report has been established for the whole application or for said claims Nos. 32-36
- ☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:
  - ☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
  - ☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
  - ☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13<sup>ter</sup>.1(a) or (b).
- ☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See Supplemental Box for further details

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**Box No. IV Lack of unity of invention**

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1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has, within the applicable time limit:
- ☐ paid additional fees
  - ☐ paid additional fees under protest and, where applicable, the protest fee
  - ☐ paid additional fees under protest but the applicable protest fee was not paid
  - ☒ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
  - ☒ not complied with for the following reasons:  
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
  - ☒ the parts relating to claims Nos. 1-31, 37 and 38

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	<u>1-31,37,38</u>
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-31,37,38</u>
Industrial applicability (IA)	Yes: Claims	<u>1-31,37,38</u>
	No: Claims	

2. Citations and explanations

see separate sheet

C) Thus, the application is split into 6 groups of (alleged) inventions:

Group I: claim 1-3, 37 and 38

A method for studying cells comprising seeding a structure with an index of refraction similar to that of water having a three-dimensional arrangement of interconnected fluid channels through said structure with at least one viable cell, immersing said structure in a medium and observing development of said at least one cell inside said structure, solving the problem of improved optical studying of cells

Group II: claim 4-31:

A device for the study of cells, comprising a structure with an index of refraction similar to that of water having a three dimensional arrangement of interconnected fluid channels through said structure, solving the problem to provide improved cell studying devices

Group III: claim 32:

A method of making a structure of a device of claim 4 comprising providing and stacking a plurality of porous sheets of material having an index of refraction similar to that of water to make said structure, solving the problem to find alternative ways to manufacture said structures

Group IV: claim 33: A method of making a structure of a device of claim 4 comprising providing and convoluting at least one filament of material having an index of refraction similar to that of water to make said structure, solving the problem to find alternative ways to manufacture said structures

Group V: claim 34, 35: A method of making a structure of a device of claim 4 comprising providing and arranging at least one sheet of material having an index of refraction similar to that of water to make said structure, solving the problem to find alternative ways to manufacture said structures

Group VI: claim 36: A method of making a structure of a device of claim 4 comprising providing and aggregating particles of material having an index of refraction similar to that of water to provide a porous block and to make said structure, solving the problem to find alternative ways to manufacture said structures

#### **Re Item V.**

Reference is made to the following document/s/:

D1: WO 2005/103691 A (PAMGENE B V [NL]; INGHAM COLIN JOHN [NL]) 3